

Senate File 366 - Reprinted

SENATE FILE 366
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SF 49)

(As Amended and Passed by the Senate March 20, 2013)

A BILL FOR

1 An Act relating to radon control and making penalties
2 applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 103A.8D Residential construction
2 requirements and standards for radon control.

3 The state building code commissioner shall adopt as a part of
4 the state building code construction requirements and standards
5 for radon control in new residential construction. The
6 requirements and standards adopted by the commissioner shall
7 be based upon the radon control method requirements of the
8 international residential code published by the international
9 code council, 2009 edition, appendix F. Notwithstanding
10 any other provision of this chapter to the contrary, the
11 construction requirements and standards for radon control
12 adopted by the commissioner and approved by the council shall
13 apply to new residential construction commenced on or after
14 January 1, 2015, and shall supersede and replace any minimum
15 requirements and standards for radon control in new residential
16 construction adopted or enacted by a governmental subdivision
17 prior to that date. The state building code commissioner may
18 provide training to builders, contractors, and other interested
19 persons on the construction requirements and standards for
20 radon control in residential construction. A builder of a
21 residence for resale shall install a passive radon mitigation
22 system in the residence and shall notify the buyer of the
23 residence that radon testing can be obtained for the residence.
24 A builder of a residence for resale shall not represent to the
25 buyer of the residence that a passive radon mitigation system
26 will remediate the presence of radon.

27 Sec. 2. Section 103A.10, Code 2013, is amended by adding the
28 following new subsection:

29 NEW SUBSECTION. 6. Notwithstanding any other provision of
30 this chapter to the contrary, the construction requirements and
31 standards for radon control in new residential construction
32 adopted by the commissioner and approved by the council shall
33 apply to all new residential construction commenced on or after
34 January 1, 2015, and shall supersede and replace any minimum
35 requirements or standards for radon control in new residential

1 construction adopted or enacted by the governmental subdivision
2 prior to that date. A builder of a residence for resale shall
3 not be liable for any claims related to radon control standards
4 or requirements after the conveyance of the residence.

5 Sec. 3. Section 136B.1, subsections 2 and 3, Code 2013, are
6 amended to read as follows:

7 2. The department shall establish programs and adopt rules
8 for the certification of persons who test for the presence of
9 radon gas and ~~radon progeny~~ in buildings, the credentialing of
10 persons abating the level of radon in buildings, and standards
11 for radon abatement systems.

12 3. Following the establishment of the certification
13 and credentialing programs by the department, a person who
14 is not certified, as appropriate, shall not test for the
15 presence of radon gas and ~~radon progeny~~, and a person who is
16 not credentialed, as required, shall not perform abatement
17 measures. This section does not apply to a person performing
18 the testing or abatement on a building which the person
19 owns, or to a person performing testing or abatement without
20 compensation.

21 Sec. 4. Section 136B.2, subsection 1, paragraph b, Code
22 2013, is amended to read as follows:

23 *b.* A person shall not disclose to any other person, except
24 to the department, the address or owner of a nonpublic building
25 that the person tested for the presence of radon gas and ~~radon~~
26 ~~progeny~~, unless the owner of the building waives, in writing,
27 this right of confidentiality. Any test results disclosed
28 shall be results of a test performed within the five years
29 prior to the date of the disclosure.

30 Sec. 5. Section 136B.2, subsection 2, Code 2013, is amended
31 to read as follows:

32 2. *a.* Notwithstanding the requirements of this section,
33 disclosure to any person of the results of a test performed
34 on a nonpublic building for the presence of radon gas and
35 ~~radon progeny~~ is not required if the results do not exceed the

1 currently established United States environmental protection
2 agency action guidelines.

3 *b.* A person who tests a nonpublic building which the person
4 owns is not required to disclose to any person the results of
5 a test for the presence of radon gas ~~or progeny~~ if the test is
6 performed by the person who owns the nonpublic building.

7 Sec. 6. Section 136B.3, Code 2013, is amended to read as
8 follows:

9 **136B.3 Testing and reporting of radon level.**

10 The department or its duly authorized agents shall from time
11 to time perform inspections and testing of the premises of a
12 property to determine the level at which it is contaminated
13 with radon gas ~~or radon progeny~~ as a spot-check of the validity
14 of measurements or the adequacy of abatement measures performed
15 by persons certified or credentialed under section 136B.1.
16 Following testing the department shall provide the owner of
17 the property with a written report of its results including
18 the concentration of radon gas ~~or radon progeny~~ contamination
19 present, an interpretation of the results, and recommendation
20 of appropriate action. A person certified or credentialed
21 under section 136B.1 shall also be advised of the department's
22 results, discrepancies revealed by the spot-check, actions
23 required of the person, and actions the department intends to
24 take with respect to the person's continued certification or
25 credentialing.

26 Sec. 7. Section 136B.4, Code 2013, is amended to read as
27 follows:

28 **136B.4 Fees — rules.**

29 1. The department shall establish ~~a fee schedule to~~
30 ~~defray the costs of~~ and collect fees for the certification
31 and credentialing programs established pursuant to section
32 136B.1 and the testing conducted and the written reports
33 provided pursuant to section 136B.3. Fees collected pursuant
34 to this section shall be retained by the department and shall
35 be considered repayment receipts as defined in section 8.2.

1 Moneys collected from such fees shall be deposited in the radon
2 education fund created in section 136B.7.

3 2. The department shall adopt rules, pursuant to chapter
4 17A, to implement this chapter.

5 Sec. 8. NEW SECTION. 136B.7 Radon education fund.

6 1. A radon education fund is created in the state treasury
7 to be administered by the department of public health. The
8 fund shall consist of all moneys deposited into the fund
9 pursuant to section 136B.4.

10 2. Moneys in the fund shall be used by the department
11 for educational purposes to promote awareness of and testing
12 for radon and for carrying out the duties of the department
13 pursuant to this chapter, including but not limited to the
14 addition of full-time equivalent positions for program services
15 and investigations.

16 3. Notwithstanding section 12C.7, subsection 2, interest or
17 earnings on moneys in the fund shall be credited to the fund.

18 Sec. 9. NEW SECTION. 280.30 Radon testing and mitigation.

19 1. For purposes of this section, "*short-term test*" means
20 a test approved by the department of public health in which a
21 testing device remains in an area for not less than two days
22 and not more than ninety days to determine the amount of radon
23 in the air that is acceptable for human inhalation.

24 2. The board of directors of each public school district
25 and the authorities in charge of each nonpublic school shall
26 establish a schedule for a short-term testing for radon gas to
27 be performed at each attendance center under its control at
28 least once by June 30, 2025, and at least once every ten years
29 thereafter, and following any new construction of an attendance
30 center or additions, renovations, or repairs to an attendance
31 center, unless otherwise provided by subsection 5.

32 3. If the results of a test at an attendance center are at
33 or above four picocuries per liter, the board of directors of
34 the public school district or the authorities in charge of the
35 nonpublic school shall have a second short-term test for radon

1 gas and radon progeny performed at the attendance center within
2 ninety days of the first short-term test.

3 4. If the results of a second test at an attendance center
4 pursuant to subsection 3 are at or above four picocuries per
5 liter, the board of directors of the public school district and
6 the authorities in charge of the nonpublic school shall retain
7 a person credentialed to perform radon abatement measures
8 pursuant to section 136B.1 to develop a radon mitigation plan
9 within ninety days of the second short-term test. The board
10 of directors of the public school district and the authorities
11 in charge of the nonpublic school shall implement the radon
12 mitigation plan within one year of the second short-term test.

13 5. *a.* The board of directors of each public school
14 district and the authorities in charge of each nonpublic school
15 shall have a short-term test for radon gas and radon progeny
16 performed every other year at any attendance center that has
17 implemented a radon mitigation plan pursuant to subsection 4 or
18 an alternative radon mitigation plan pursuant to paragraph "b"
19 of this subsection.

20 *b.* If the results of a biennial test at an attendance
21 center are at or above four picocuries per liter, the board of
22 directors of the public school district and the authorities
23 in charge of each nonpublic school shall retain a person
24 credentialed to perform radon abatement measures pursuant to
25 section 136B.1 to develop an alternative radon mitigation plan
26 within ninety days of the annual test. The board of directors
27 of the public school district and the authorities in charge
28 of the nonpublic school shall implement the alternative radon
29 mitigation plan within one year of the annual test.

30 *c.* The board of directors of each public school district
31 and the authorities in charge of each nonpublic school shall
32 continue biennial radon testing at an attendance center
33 until the results of annual radon testing at the attendance
34 center have been less than four picocuries per liter for four
35 consecutive years.

1 6. Radon testing pursuant to this section shall be conducted
2 by a person certified to conduct such testing pursuant to
3 section 136B.1 and shall be conducted as prescribed by the
4 department of public health. Radon mitigation plans and
5 alternative radon mitigation plans pursuant to this section
6 shall be developed and implemented as prescribed by the
7 department of public health.

8 7. The department of public health and the department of
9 education shall each adopt rules pursuant to chapter 17A to
10 jointly administer this section.

11 Sec. 10. Section 298.3, subsection 1, Code 2013, is amended
12 by adding the following new paragraph:

13 NEW PARAGRAPH. *n.* Radon testing and radon mitigation
14 pursuant to section 280.30.

15 Sec. 11. STATE MANDATE FUNDING SPECIFIED. In accordance
16 with section 25B.2, subsection 3, the state cost of requiring
17 compliance with any state mandate included in this Act shall
18 be paid by a school district from state school foundation
19 aid received by the school district under section 257.16, a
20 physical plant and equipment levy under section 298.2, or
21 modified allowable growth under section 257.31, subsection 6.
22 This specification of the payment of the state cost shall be
23 deemed to meet all of the state funding-related requirements of
24 section 25B.2, subsection 3, and no additional state funding
25 shall be necessary for the full implementation of this Act
26 by and enforcement of this Act against all affected school
27 districts.